

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ENGIDASHET W. GEBRE,

Plaintiff,

v.

CONDOLLEEZA RICE, as Secretary of State, and
DEPARTMENT OF STATE,

Defendants.

Civil Action No. 05-11321-WGY

DEFENDANTS' MOTION TO DISMISS

Plaintiff, Engidashet W. Gebre, an Ethiopian national, filed a complaint in this Court on June 23, 2005, to compel the issuance of an immigrant visa on the basis of the immigrant diversity visa program. Mr. Gebre was issued an immigrant visa as a diversity applicant on August 20, 2002. During the application process, Tiringo T. Tegebelu, Mr. Gebre's wife, appeared with him and applied for an immigrant Diversity Visa as his spouse. Her application was denied. Plaintiff is now requesting a mandamus order to issue an immigrant visa to his wife.

As explained in the accompanying Memorandum In Support, the Defendants respectfully move to dismiss pursuant to Fed. R. Civ. P. 12, for failure to state a claim upon which relief can be granted, and lack of jurisdiction due to mootness.

Respectfully submitted,

Secretary of State an the Department
of State

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Anton P. Giedt 4/14/2006
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LOCAL RULE 7.1(A)(2) CERTIFICATION

Undersigned counsel certifies that pursuant to the requirements under Local Rule 7.1(A)(2), he has conferred with Plaintiff's counsel in an effort to resolve the issues addressed in this motion.

/s/ Anton P. Giedt
Anton P. Giedt
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
DATE: April 14, 2006

I, Anton P. Giedt, Assistant U.S. Attorney, do hereby certify that I have this day served a copy of the foregoing upon the Plaintiff's counsel of record through Electronic Filing.

/s/ Anton P. Giedt
Anton P. Giedt
Assistant U.S. Attorney